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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ilkka Eskelinen et al.

Group Art Unit: 1731

Application No. 10/070,409

Examiner: Peter Chin

Filed: March 6, 2002

For: DOCTOR UNIT IN A PAPER MACHINE

Attorney Docket No. 11001.090

I hereby certify that this correspondence is being transmitted via facsimile to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 at 571-273-8300 on

February 8, 2006  
Date

Christopher J. Fildes  
Registered Attorney

  
Signature

PETITION UNDER 37 CFR 1.181(a) REQUESTING WITHDRAWAL OF THE  
HOLDING OF ABANDONMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant in the referenced application respectfully requests withdrawal of the holding of abandonment mailed January 25, 2006.

The Notice of Abandonment states that the application is abandoned in view of applicant's failure to timely pay the required issue fee, and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance. Supervisory patent examiner Steven Griffen indicated on February 2, 2005 by telephone conference that the Notice of Allowance was mailed August 17, 2005.

Applicant presents the following statements and evidence in support of the Petition Requesting Withdrawal of the Holding of Abandonment.

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I, Christopher J. Fildes, the undersigned attorney practitioner for applicant in the above referenced application, knowing that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting patent, state that:

1) I have not received the Notice of Allowance in the above referenced application dated August 17, 2005;

2) I have made a search of the file jacket of the above referenced application, said search indicating that the Notice of Allowance dated August 17, 2005 was not received;

3) I have attached a copy of the file jacket of the above referenced application (attached as "Exhibit A");

4) I have made a search of all the docket records of the firm Fildes & Outland, P.C., said search indicating that the Notice of Allowance dated August 17, 2005 was not received;

5) I have attached a copy of the docket records of the firm Fildes & Outland, P.C. (attached as "Exhibit B") for the months of August, September, October, and November 2005, which include the three month period for reply to the nonreceived Notice of Allowance running from the mail date of the nonreceived Notice of Allowance (August 17, 2005) to the date three months after the mail date of the nonreceived Notice of Allowance (November 17, 2005); and

6) The docket record provided with this Petition as Exhibit A is a representation of the docket record of the entire firm of Fildes & Outland, P.C.

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**REMARKS**

Practitioner submits that he has met the requirements for a petition for withdrawal of a holding of abandonment based on failure to receive an office action as outlined in the Notice "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993) and MPEP Section 711.03(c), Section I.A. (Petitions Relating to Abandonment -- I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT -- A. *Petition to Withdraw Holding of Abandonment Based on Failure To Receive Office Action*).

These references first indicate that the practitioner must state that the Office communication was not received. Practitioner has fulfilled this requirement in statement (1) above.

The references further state that the practitioner must attest to the fact that a search of the file jacket and docket record indicates that the Office communication was not received. Practitioner has attested to searching the file jacket in statement (2) above and has attached a copy of the file jacket as Exhibit A. Practitioner has searched the file wrapper of the above referenced application and has ascertained that there is not a Notice of Allowance dated August 17, 2005 in the file. The last two documents in the file wrapper prior to the Notice of Abandonment dated January 25, 2006 are an Amendment and Request for Reconsideration dated February 8, 2005 and an Office Action dated November 16, 2004. Further, the file wrapper jacket cover attached as Exhibit A does not show an entry of a Notice of Allowance dated August 17, 2005. It is standard practice at the firm Fildes & Outland, P.C. to record on the cover of the file wrapper the mail date and due date of an Office communication on the date the communication is received. Hence, the fact that no Notice of Allowance is recorded on the file wrapper cover of the above referenced application is evidence that the Notice of Allowance dated August 17, 2005 was not received.

The references furthermore state that a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. Practitioner has attested to searching all of the docket records of the firm Fildes & Outland, P.C. in statement (4) above. Copies of the relevant docket records of the firm Fildes & Outland, P.C. are attached as Exhibit B. MPEP

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Section 711.03(c), ~~Section I.A.~~, with respect to the requirement to submit a copy of the docket record, states that: "For example, if a three month period of reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." Therefore, practitioner has included as Exhibit B the docket record of practitioner's firm Fildes & Outland, P.C. for the months of August through November, 2005, which include the dates between the mail date of the nonreceived Office communication (August 17, 2005) and the date a three month period of reply would have fallen on (November 17, 2005). A review of the docket for these months shows that there are no entries for Application No. 10/070,409; Attorney Docket No. 11001.090 (the above referenced application), which indicates that the Notice of Allowance was not received. It is standard practice at the firm Fildes & Outland, P.C. to record the due date of an Office communication in the firm's docket when the Office communication is received. It is also standard practice, for example, to record a reminder one month prior to the due date of an Office communication. The lack of any entries for the above referenced application in the firm's docket is therefore further evidence that the Notice of Allowance dated August 17, 2005 was not received. A review of the docket shows that there were no cases of the firm Fildes & Outland, P.C. with the due date of November 17, 2005.

Moreover, practitioner declares that the docket record found in Exhibit B is the docket record of the entire firm Fildes & Outland, P.C. (see statement (6) above).

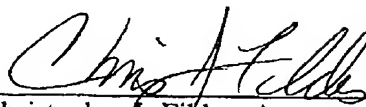
Whereby, applicant respectfully requests withdrawal of the holding of abandonment in this case and that the nonreceived Notice of Allowance be remailed.

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Respectfully submitted,

Ilkka Eskelinen et al.

Fildes & Outland, P.C.



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20916 Mack Avenue, Suite 2  
Grosse Pointe Woods, MI 48236  
(313) 885-1500

Attachments

## Exhibit A



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**Exhibit B**



✓ Maint. fees January 2006 (4)

NOVEMBER 2005	NOVEMBER 2005
S M T W T F S	S M T W T F S
3 4 5 6 7 8 9	1 2 3 4 5 6 7
10 11 12 13 14 15 16	8 9 10 11 12 13 14
17 18 19 20 21 22 23	15 16 17 18 19 20 21
24 25 26 27 28 29 30	22 23 24 25 26 27 28
31	29 30 31

August 2005  
 S M T W T F S S  
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31  
 September 2005  
 S M T W T F S S  
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30  
 October 2005  
 S M T W T F S S  
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31  
 November 2005  
 S M T W T F S S  
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30  
 December 2005  
 S M T W T F S S  
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

~~Maint Fees March 2000~~

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29	Odds Only (Upgrades)							
30								
31								

September 1, 2005  
S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12  
13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30  
October 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

October	2006
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[illegible]

December 4, 8 2005  
S M T W T F S  
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18 19 20 21 22 23 24  
25 26 27 28 29 30 31  
2006

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